IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 473 of 2006

Vikrant Bohra
S/o Om Prakash Bohra
R/o Jai Guru Agency, Nanda Devi Bazar
Tehsil and District Almora ...Applicant

Vs.

1- Sessions Judge, Almora
District Almora.

2- Chief Judicial Magistrate,
Almora, District Almora.

3- Tilak Raj Verma
S/o Late Bhawani Lal Verma
R/o Nanda Devi Lala Bazar
Tehsil & District Almora. .....Opp. Parties

Sri Sudhir Singh, learned counsel for the petitioner.
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed by the applicant who has been summoned by the court of Chief Judicial Magistrate, Almora vide order dated 17-5-2005 to face the trial U/S 138 of Negotiable Instruments Act.

2- The petition by way of this petition has challenged the summoning order dated 17-5-2005 as well as the order dated 5-4-2006 passed by Sessions Judge, Almora in revision. The petitioner has also sought the relief for quashing the entire proceedings of Criminal Case No. 71/2005, Tilak Raj Verma Vs. Vikram Bohra.

3- Brief facts of the case are that respondents No. 3, Tilak Raj Verma filed a complaint against the petitioner U/S 138 Negotiable Insurance Act alleging

therein that the accused Vikram Bohra (petitioner before this court) took a sum of Rs. 2,30,000/- from him and the accused thereafter issued a cheque to the respondent No. 3 for the aforesaid amount with the assurance that when the cheque will be presented before the Bank on 5-1-2005 the same will be honoured.

4- The complainant presented the cheque on the aforesaid date before the Bank, but the same was dishonoured. Thereafter the respondent No. 3 issued the notice to the petitioner but he did not respond to that notice. Hence he filed the complaint.

5- The learned Chief Judicial Magistrate on having perused the complaint as well as the statement of the complainant passed an order on 17-5-2005 observing therein that there was a prima facie case against the petitioner, hence issued the summon against the petitioner to face the trial. The petitioner preferred the revision and the learned Sessions Judge vide judgment and order dated 5-4-2006 dismissed the revision.

6- Thereafter, the petitioner has preferred the present petition U/S 482 Cr.P.C.

7- Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

8- After having considered the arguments advanced by the learned counsel for the petitioner, I do not find any abuse of process of court in this case. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me would amount a premature

judgment as the evidence is yet to be produced before the trial Judge.

9- Learned counsel for the petitioner has submitted that the alleged cheque which has been issued in favour of the respondent No. 3, neither bears the signature of the petitioner, nor it is in the hand writing of the petitioner, and the court below without having considered this aspect, has taken the cognizance in the matter.

10- I fail to appreciate the argument advanced by the learned counsel for the petitioner as the contention raised by the petitioner is subject to the evidence to be adduced before the trial court. The trial court while deciding the matter in controversy shall also deal with this issue in question.

11- With the aforesaid observation, I am of the view that petition lacks merit and is liable to be dismissed.

12- Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

Dated: 20-07-2006
ISB